

From: Nies, Sara
To: [Miller, Patricia G.](#)
Cc: [Guerry, William M.](#); [Cooperman, Jonathan](#)
Subject: RE: Follow-up question to Big Ox CBI substantiation letter
Date: Thursday, March 23, 2017 5:10:32 PM

Pat,

Jon forwarded your email to me and asked that I respond. Yes, Big Ox plans to assert a CBI claim for the documents you have listed below.

Best regards,

Sara

Sara Nies

Kelley Drye & Warren LLP
(212) 808-7826 | snies@kelleydrye.com

From: "Miller, Patricia G." <Miller.Patriciag@epa.gov>
Date: March 22, 2017 at 3:44:41 PM EDT
To: "Cooperman, Jonathan" <JCooperman@KelleyDrye.com>, "Guerry, William M." <WGuerry@KelleyDrye.com>
Subject: RE: Follow-up question to Big Ox CBI substantiation letter

Jonathan;

I'm checking back with you to find out if you've been able to determine whether Big Ox plans to assert a CBI claim for any of the documents listed in my email, below. Please provide a response at your earliest convenience so we can complete our review of the CBI claim.

Thanks, Pat

Patricia Gillispie Miller
Office of Regional Counsel
US EPA, Region 7
11201 Renner Blvd.
Lenexa, Kansas 66219

Phone: 913-551-7283
Fax: 913-551-7925

From: Cooperman, Jonathan [<mailto:JCooperman@KelleyDrye.com>]
Sent: Friday, March 10, 2017 2:26 PM
To: Miller, Patricia G. <Miller.Patriciag@epa.gov>; Guerry, William M. <WGuerry@KelleyDrye.com>

Subject: RE: Follow-up question to Big Ox CBI substantiation letter

Thank you Pat and thank you also for helping to organize yesterday's meeting. Either Bill or I will be back to you about the below early next week. Have a nice weekend. Jon

Jonathan Cooperman

Kelley Drye & Warren LLP
(212) 808-7534 | jcooperman@kelleydrye.com

From: Miller, Patricia G. [<mailto:Miller.Patriciag@epa.gov>]

Sent: Friday, March 10, 2017 2:47 PM

To: Guerry, William M. <WGuerry@KelleyDrye.com>; Cooperman, Jonathan <JCooperman@KelleyDrye.com>

Subject: Follow-up question to Big Ox CBI substantiation letter

Good afternoon;

Your January 17 and February 8, 2017, responses to the CWA information request made a broad assertion of CBI for "all information submitted in response to this CWA Information Request and all information discovered or gathered by EPA during the facility or other inspections." In your CBI substantiation letter for Big Ox Energy dated February 28, 2017, you identified several attachments to Big Ox' response to the CWA information request for which the company is continuing its CBI claim. Your letter did not, however, discuss any of the documents obtained by the EPA during its January 10-12, 2017 inspection.

During the inspection, Big Ox claimed flow diagrams as CBI. These were also identified as Exhibits D and F in the information request responses and included in your the CBI substantiation letter. Listed below are three additional sets of information collected during the inspection that seem to be broadly within the scope of the original CBI claim, as stated in your letters of January 17 and February 8, 2017, but which have not been specifically identified or substantiated as CBI. Before we complete the CBI determination process for the CWA-related information, I am providing you an opportunity to indicate whether any of these items are being claimed as CBI, and if so, to supplement your CBI substantiation as quickly as possible.

1. Photos Taken During Inspection, with Captions (19 pages)
 - The EPA inspector informed me that a member of Big Ox' staff took his own picture of each item the inspector photographed. Please identify with specific any subject matter for which a CBI claim is made and provide substantiation for the claim.
2. Big Ox Energy Shift "Rounds" Log Sheets for January 9-10, 2017, with Map of Route

(5 pages)

3. Big Ox Energy Shift Log Sheets for January 5-10, 2017; Effluent Sulfides & H₂S (8 pages)

Your prompt response would be greatly appreciated. Please feel free to call me to discuss this issue if you have any questions.

Pat

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